

CHAMPLIN PETROLEUM CO.  
WAYNE E. DEBORD

IBLA 82-129

Decided October 22, 1982

Appeals from decision of New Mexico State Office, Bureau of Land Management, denying approval of assignment of record title interest in noncompetitive oil and gas lease. NM-33390.

Appeal dismissed.

1. Rules of Practice: Appeals: Generally

Where the assignee, in effect, withdraws his request for approval of an assignment, an appeal filed by the assignor as to the validity of the assignment will be dismissed as moot.

APPEARANCES: Roscoe Walker, Jr. Esq., Denver, Colorado, for appellant Champlin Petroleum Co.; John H. Norton, Esq., Moscow, Idaho, for appellant Wayne E. DeBord; Gayle E. Manges, Esq., Office of the Field Solicitor, U.S. Department of the Interior, Santa Fe, New Mexico, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

By decision dated October 6, 1981, the New Mexico State Office, Bureau of Land Management (BLM), denied approval of the assignment of the record title interest in noncompetitive oil and gas lease NM-33390 from Wayne E. DeBord to the Champlin Petroleum Company (Champlin). On November 3, 1981, DeBord filed a notice of appeal from the October 1981 decision with BLM. On November 9, 1981, Champlin similarly filed a notice of appeal. On November 24, 1981, Champlin submitted a letter formally withdrawing its appeal.

Noncompetitive oil and gas lease NM-33390 was originally issued to Wayne E. DeBord, effective September 1, 1978, pursuant to section 17 of the Mineral Leasing Act, as amended, 30 U.S.C. § 226 (1976). By decision dated November 27, 1979, BLM canceled the lease because DeBord had violated the disclosure requirements of 43 CFR 3102.7 (1979) and the multiple filing provisions of 43 CFR 3112.5-2 (1979) in connection with the simultaneous oil and gas leasing program. We affirmed the cancellation in Wayne E. DeBord,

50 IBLA 216, 87 I.D. 465 (1980). On December 23, 1980, a suit for judicial review was filed with the United States District Court for the District of Idaho, Landis v. Andrus, Civ. No. 80-2110 (D. Idaho). By decision dated March 23, 1981, the District Court ordered the case transferred to the United States District Court for the District of Montana. Landis v. Watt, 510 F. Supp. 178 (D. Idaho 1981). The suit is presently pending.

On December 20, 1979, Champlin had filed for approval an "Assignment Affecting Record Title to Oil and Gas Lease" (Form 3106-5/November 1975), with respect to the assignment of the record title interest in noncompetitive oil and gas lease NM-33390 from DeBord to Champlin. Under the terms of the assignment, executed November 2, 1979, DeBord retained a 5 percent overriding royalty interest. In its October 1981 decision, BLM noted that the lease had been canceled and concluded in part that Champlin did not qualify as a "bona fide purchaser" who was protected under 30 U.S.C. § 184(h)(2) (1976). See, e.g., Frederick J. Schlicher, 54 IBLA 61 (1981).

As noted above, Champlin has withdrawn its appeal. Accordingly, the appeal of Champlin is hereby dismissed.

[1] On November 30, 1981, DeBord filed a statement of reasons for appeal in which he challenges denial of approval of the assignment to Champlin, primarily on the basis that Champlin should be considered a "bona fide purchaser." However, as we recently noted in Petrol Resources Corp., 65 IBLA 104 (1982), the assignee, in this case Champlin, is the proper applicant for the approval of an assignment. Moreover, as was noted in Hill v. Williams, 59 I.D. 370 (1947), the assignee has the complete right to withdraw the assignment. So, too, where an assignee withdraws an appeal from a decision disapproving an assignment the effect is to withdraw the application to assign. This being the case, the issues raised by DeBord must be considered moot.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeals of Wayne E. DeBord and the Champlin Petroleum Company are dismissed.

James L. Burski  
Administrative Judge

We concur:

Gail M. Frazier  
Administrative Judge

Will A. Irwin  
Administrative Judge.

